

Court of Chancery (Ireland) Bill.

[AS AMENDED BY THE COMMITTEE.]

ARRANGEMENT OF CLAUSES.

- Suits may be instituted in the Court of Chancery in Ireland by Petition in all Cases; Sect. 1.
- Court to have same Jurisdiction on Petition, and Order to have same Authority, as in a Suit; 2.
- Proviso. Court may direct a Suit to be instituted; 3.
- Persons objecting to Proceedings under the Act may apply for Order that a Suit be prosecuted in the ordinary Way at the Peril of Costs; 4.
- Verification of Petition; 5.
- Petitioners may annex Interrogatories to their Petition; 6.
- Respondents may file Interrogatories to be answered by Petitioners; 7.
- Practice as to answering the Interrogatories to be same as on Bill and Subpoena; 8.
- Petitions to be heard before Lord Chancellor as Causes are now heard, and Petitions, &c. to be filed and entered in a Book; Table and Payment of Fees; 9.
- Power to petition for Opinion of Court upon Special Case; 10.
- Court or Master may in all Suits direct Evidence to be taken viva voce, or by Affidavit, as well as on Interrogatories; 11.
- In taking Accounts, the Master may direct Books of Account that have been kept to be *prima facie* Evidence; 12.
- Executors, &c. may prove Debts in taking Accounts for Administration of Estate; 13.
- Certain Classes of Petitions may be referred summarily to Master; 14.
- Master to proceed on the Petition referred to him, and to have with respect thereto the same Jurisdiction as might have been exercised by the Court in a Suit; 15.
- State of Facts may be dispensed with, and Master to regulate Proceedings; 16.
- Master's Orders to take effect as Orders of Court; 17.
- Masters may make special Reports or Orders, subject to Confirmation; 18.

- Service to be made as Court or Master shall direct ; 19.
- Power to Master to appoint Guardians to Infants for the Purpose of Proceedings under the Act ; 20.
- After Reference to Master of Petition with respect to Administration or after Decree, no Creditor to sue without Master's Leave ; 21.
- Where Suit instituted, previous Proceedings before Master to be valid ; 22.
- In case of Illness of a Master another Master may act ; 23.
- Payment, Taxation, and Recovery of Costs in Proceedings before the Master ; 24.
- Masters within Six Months to make Rules for Procedure under the Act ; 25.
- Petition may be presented to the Court for partial Relief, &c. ; 26.
- Two or more Proceedings may be consolidated ; 27.
- Mode of continuing Proceedings on Transmission of Interest of Parties ; 28.
- Appeal from the Master's Orders and Orders on Petition to be upon Motion ; Rehearings and Appeals to the House of Lords within a limited Time ; 29.
- Lord Chancellor to make Orders for carrying the Act into effect, and extending its Scope ; 30.
- The Master of the Rolls empowered to appoint a Secretary with a Salary ; 31.
- The Lord Chancellor's Secretary, and Masters, Clerks, and Examiners, to be paid by a Salary in lieu of Fees ; 32.
- The Clerks and Examiners of Masters, and Assistant Clerks, to hold Office during good Behaviour, and to be paid by Salary in lieu of Fees ; Salary of Assistant Clerk to be in lieu of Salary payable under 6 Geo. 4. c. 30. ; 33.
- The Salaries to be paid quarterly ; 34.
- The Lord Chancellor's Secretary, and the Clerks and Examiners, to pay over to Suitors Fee Fund, monthly, all Fees received by them ; 35.
- Compensation for Diminution of Emoluments to be made out of the Suitors Fee Fund ; 36.
- Petition to be a *Lis pendens* within Meaning of the 7 & 8 Vict. c. 90. s. 10. ; 37.
- Short Title ; 38.
- Interpretation ; 39.
- Act may be amended ; 40.
- SCHEDULE.

1 March 1850. 13 VICT.



(Ireland.)

A

B I L L

[AS AMENDED BY THE COMMITTEE]

TO

Simplify and improve the Proceedings in the High
Court of Chancery in Ireland.

[*Note.—The Clauses marked A. to F. were added by the Committee.*]

WHEREAS it is expedient to lessen the Delay and Expense of Proceedings in the High Court of Chancery in Ireland, and otherwise to improve the Procedure of the said Court: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That in any Case in which a Suit might be instituted in Her Majesty's High Court of Chancery in Ireland by way of Bill or Information, it shall be lawful for any Person who would have been entitled to file such Bill or Information to apply to the said Court by Petition for the Relief which might have been prayed for by any such Bill or Information; and Service of Notice of such Petition shall be made, as herein-after provided, upon such Persons as the Petitioner thinks fit, but with Power to the Court from Time to Time to direct any further Service of the same; and Service of such Notice being made, the Person so served shall from the Time of such Service become a Party to such Proceeding, and be bound thereby in all respects, in the same Manner as if a Bill or Information had been filed and such Person had appeared to a Subpoena to appear and answer.

Preamble.

Suits may be instituted in the Court of Chancery in Ireland by Petition in all Cases.

101.

A

II. And

Courts have
same Juris-
diction on
Petition and
Order to have
same Autho-
rity as in a
Suit.

II. And be it enacted, That the Court shall have and exercise, in and about any Matter so brought before it upon Petition, the same Jurisdiction, Powers, Authorities, and Discretion, to all Intents and Purposes, as it could have exercised in a Suit for the same Purpose instituted by way of Bill or Information; and all Orders of the 5 Court to be made in any such Matter may be made in the same Manner, whether upon Motion or otherwise, and shall have the same Authority and Effect, and may be enrolled in the same Manner, and shall be binding upon the same Persons, under whatsoever Disability they may be, and may be enforced by the same or any such Process, 10 and shall be subject to Rehearing and Appeal, in the same Manner in all respects, except as herein provided, as if the same, had been made in a Suit so instituted as aforesaid; and every Petition presented under this Act shall have the same Effect in making any Infant a Ward of Court as a Bill filed in the Matter would have had; and 15 every such Petition shall have the same Effect as a Bill in Equity with respect to Proceedings for Redemption under the Acts relating to Ejectment for Nonpayment of Rent.

Provided,
Court may
direct a Suit
to be insti-
tuted.

III. Provided always, and be it enacted, That if it appear to the Court at any Time that the Relief prayed for by any such Petition 20 as aforesaid, or any Part thereof, cannot be safely or conveniently granted, or that the Object or any of the Objects of such Petition, or any Part thereof respectively, cannot be safely or conveniently attained under the Procedure of this Act, it shall be lawful for the Court to direct a Suit to be instituted by way of Bill or Information, and 25 by such Persons as the Court thinks fit, and either to retain or dismiss the Petition accordingly.

Persons ob-
jecting to
Proceedings
under the
Act may ap-
ply for Order
that a Suit
be prosecuted
in the ordi-
nary Way at
the Peril of
Costs.

IV. Provided also, and be it enacted, That if any Person interested or claiming to be interested in the Matter of any Petition presented under this Act desire that the Relief sought thereby may be sought 30 in a Suit to be prosecuted in the ordinary Way, it shall be lawful for such Person at any Time, whether such Petition have been referred to the Master, as herein-after provided, or not, to apply to the Court, upon Motion in a summary Way, for an Order directing that the Matter of such Petition or any Part thereof be not further proceeded 35 with under this Act, or that a Suit with respect thereto may be instituted or proceeded with in the ordinary Way, and thereupon the Court shall make such Order as shall be just; but the Costs of all Parties to be occasioned by any such Application shall (except so far as the Court otherwise specially directs) be paid and borne by 40 the Person by whom such Application is made; and it shall be lawful for the Court, if it think fit, by any such Order to require that such Security as it thinks fit be given by the Party making such

such Application, for answering the additional Costs, if any, to be occasioned by reason of such Suit or other Proceeding being instituted.

V. And be it enacted, That every Petition to be presented under this Act may be verified by Affidavit annexed thereto or subscribed at the Foot thereof in the Form or to the Effect set out in the Schedule annexed to this Act; and that with respect to Petitions authorized to be referred to the Master in a summary Way, as herein-after provided, no Costs of any further or additional Affidavit in Verification* shall be allowed, unless specially allowed by the Court.

Verification of Petition.

VI. And be it enacted, That upon presenting any such Petition as aforesaid the Petitioner may, if he think fit, annex to his Petition Interrogatories, to be answered by the Respondents to such Petition, or such of them as he requires to answer the same, or he may file such Interrogatories at any later Stage of the Proceedings on such Petition as the Court shall by any general or special Order permit.

Petitioner may annex Interrogatories to their Petition.

VII. And be it enacted, That the Respondents to any such Petition, or any of them, may, if they think fit, annex to their Affidavits filed in answer to such Petition Interrogatories, to be answered by the Petitioners or any of them, touching the Matters alleged in such Affidavit or Petition, and that whether such Respondents file a cross Petition or not, or he may file such Interrogatories at any later Stage of the Proceedings on such Petition as the Court shall by any general or special Order permit.

Respondent may file Interrogatories to be answered by Petitioners.

VIII. And be it enacted, That, until and except so far as it shall be otherwise provided by any Rule or Order to be made as herein-after mentioned, the Practice as to answering and enforcing an Answer to such Interrogatories shall be the same as upon a Bill or cross Bill filed, except that such Answer shall be by way of Affidavit, and the Person required to answer any such Interrogatories shall, on being served with a Copy thereof, be subject to the same Obligation as to answering the same, and the Court may exercise the same Powers for enforcing such Answer, and the Production of Documents therein referred to, as if a Bill or cross Bill had been filed against such Person, and he had been served with Subpoena to answer the same, and had appeared thereto, or an Appearance had been entered for him on the Part of the Plaintiff, pursuant to an Act of the Fourth and Fifth Year of the Reign of His late Majesty King William the Fourth, intituled "An Act for the Amendment of the Proceedings and Practice of the High Court of Chancery in Ireland:" Provided always, that every such Person shall be entitled to the Benefit of the same or the like Objection to answering any such Interrogatories

Practice as to answering the Interrogatories to be same as on Bill and Subpoena.

4 & 5 W. 4. c. 78.

as he might have insisted on by way of Plea or Demurrer in a Suit instituted in the ordinary Way.

CAUSES A.
Petitions to
be heard be-
fore the Lord
Chancellor as
Causes are
now heard,
and Petitions
and Affidavits
to be filed in
Rolls Office
and entered
in a Book.
Table of Fees
to be settled,
and Fees to
be paid over
to the Suitors
Fee Fund.

IX. And be it enacted, That every Petition to be presented under the Authority of this Act shall be entitled "Cause Petition under 'The Court of Chancery (Ireland) Improvement Act, 1850,'" 5 and shall be heard as Causes are now heard before the Lord Chancellor, unless in Cases where the Lord Chancellor specially directs the same to be heard before the Master of the Rolls, but no Subpoena to bear Judgment shall be required; and every such Petition and every Affidavit in the Matter of any such Petition shall 10 be filed in the Office of the Deputy Keeper of the Rolls in Ireland in like Manner as Bills and Answers are now filed there, and an Entry of such Petitions and Affidavits shall be made in a Book or Books to be kept for that Purpose, in like Manner as Bills and other Pleadings are now entered in the said Office, subject nevertheless to such 15 Regulations and Orders as the Lord Chancellor, with the Assistance of the Master of the Rolls in Ireland, shall make in that Behalf; and it shall be lawful for the Lord Chancellor, with such Assistance as aforesaid, to settle a Table of Fees to be taken in the Office of the said Deputy Keeper of the Rolls in respect of such Petitions and 20 Affidavits, and to make all such Regulations as shall be necessary and proper for providing that the Balance of such Fees, after deducting such Payments as may lawfully be payable thereout, shall be from Time to Time duly accounted for and paid into the Bank of Ireland in the Name of the Accountant General, to be placed to the 25 Credit of the Account there called "The Suitors Fee Fund."

Power to
petition for
Opinion of
Court upon
Special Case.

X. And be it enacted, That it shall be lawful for any Person (the Direction of the Master in the Case of Persons under Disability as herein-after mentioned being first obtained,) to present a Petition to the Court of Chancery in Ireland, stating any Document, Facts, 30 or Circumstances by way of Special Case, and praying for the Opinion of the Court upon such Special Case; and it shall be lawful for the Court to give Judgment upon such Petition accordingly, and such Judgment shall bind all such Persons as the Court shall direct, and in default of such Direction then shall bind all such Persons as 35 presented the same, but shall be subject to Rehearing and Appeal in the same Manner as herein provided in case of Petitions where Relief is prayed; and where the Opinion of the Court is desired in any Matter in which any Infant, Idiot, Lunatic, or married Woman is interested, it shall be lawful for the Master of the Court in rotation to 40 direct the presenting of such Petition by way of Special Case, on behalf of the Infant, Idiot, Lunatic, or married Woman, and such Direction of the Master shall be conclusive to all Intents and Purposes.

XI. And

XI. And be it enacted, That it shall be lawful for the High Court of Chancery in Ireland, or for any of the Masters in Ordinary of the said Court, in any Suit or in any Matter pending or being heard before them respectively, and within their respective Jurisdictions, to direct the whole or any Part of the Evidence relating to such Matter to be taken either *vis à voce* on Oath before the Court or Master, or upon Affidavit, instead upon Interrogatories or in addition to an Examination upon Interrogatories, and it shall be lawful for the said Court to exercise all the same Powers for enforcing the Attendance of any Witness in whatever Part of Ireland such Witness may reside, to be examined before the said Court or Masters respectively in any such Matter as it might exercise for enforcing the Attendance of a Witness residing within Twenty Miles of Dublin to be examined on Interrogatories according to the ordinary Practice of the said Court.

The Court or Master may in all Suits direct Evidence to be taken *vis à voce* or by Affidavit, as well as on Interrogatories.

XII. And be it enacted, That in any Case in which any Partnership or other Account is required to be taken before One of the Masters of the High Court of Chancery in Ireland it shall be lawful for such Master, if he think fit, to direct that in taking such Account the Books of Account in which the Accounts so required to be taken have been kept, or such of them as he thinks fit, shall be taken as *prima facie* Evidence of the Truth of the Matters therein contained, with Liberty to the Parties interested to take such Objections thereto as they may be advised; and it shall be lawful for the Master to employ an Accountant to make out the Accounts as the Master shall require, and the Master shall be at liberty to adopt such Accounts, subject to any Objections to be made by any of the Parties; and such Accountant shall be paid such Sum as the Master shall consider reasonable and proper by the Party having the Carriage of the Proceedings, who shall be entitled to charge the Sum so paid by him as Part of his Costs in the Cause or Matter.

In taking Accounts the Master may direct Books of Account that have been kept to be *prima facie* Evidence.

XIII. And be it enacted, That in all Cases in taking the Accounts necessary for the Administration of the Estate of any deceased Person by the High Court of Chancery in Ireland, Debts may be proved before the Master by the Executor or Administrator of the Testator's Estate, or by any other Person who shall be able to establish the same to the Satisfaction of the Master, and in case any Creditor, after Notice shall have been given to him of such Proof having been made, shall attempt to establish any larger Amount, the same shall be at Peril of any Costs which may be awarded against him by the Master.

CLAUDE R. In taking Accounts for Administration of Estate, Executors, &c. may prove Debts.

Certain
Clases of
Petitions
may be re-
ferred sum-
marily to
Master.

XIV. And be it enacted, That when any such Petition as herein-
before mentioned is presented to the Court with respect to any of the
following Branches of the Jurisdiction of the High Court of Chancery
in Ireland, that is to say,

With respect to the Administration of the Real and Personal Estate 5
or the Personal Estate of a deceased Person,

With respect to the Foreclosure and Redemption of Mortgages,

With respect to the Appointment of new Trustees under any Deed,
Will, or other Instrument,

With respect to the Appointment of Guardians and the Allowance 10
of Maintenance to Infants,

With respect to the taking of Partnership Accounts, and

With respect to such other Branches of the said Jurisdiction as the
Lord Chancellor of Ireland, with the Assistance of the Master
of the Rolls in Ireland, by any General Order to be made as 15
herein-after provided, shall from Time to Time direct,

the Court may, on the Application of the Petitioners, and on the Pro-
duction of such Affidavit of Verification as aforesaid, by Order made
in a summary Way, and without Notice to any other Parties, unless
the Court see fit to direct any such Notice to be given, refer the said 20
Petition to the Master in Ordinary of the said Court in rotation,
either generally or with such special Directions with reference thereto
as to the Court may seem fit.

Master to
proceed on
the Petition
referred to
him, and to
have with
respect
thereto the
same Juris-
diction as
might have
been exer-
cised by the
Court in a
Suit.

XV. And be it enacted, That upon any such Petition being so
referred it shall be lawful for the Master to whom the same is 25
referred to consider the Matter thereof, and to direct Service of
Notice thereof as herein-after directed, and thereupon to make
all such Inquiries and such interlocutory Orders for Payment of
Money into Court or for an Injunction or Receiver, and all such
Orders for the Sale of Real or Personal Estates, or otherwise, not 30
being Orders for the Distribution or Payment of any Share of Money
or the Conveyance of any Real or Personal Estate, and generally to
make such Orders and give such Directions in relation to the Relief
sought by such Petition as the Case may require; and for the Pur-
pose aforesaid the Master shall have, within the Limits and subject 35
to the Restrictions and Regulations herein provided, the same Juris-
diction, Authority, and Discretion, and the same Power to make
Orders, and otherwise to act in and about the Matter, as the Court,
or any Master of the Court, could have exercised or done in or as
incidental to a Suit duly instituted and conducted according to the 40
ordinary Practice of the Court, and it shall also be lawful for the
Master to examine all or any of the Parties to the Suit *viva voce*, if
he think fit.

XVI. And

XVI. And be it enacted, That, subject to any Rule or Order to be made as herein-after mentioned, the Master may, in proceeding under this Act, proceed on a Copy of the Petition, without any State of Facts, Charge, or Proposal in Writing, unless, for supplying any Deficiency in the Statement or Prayer of the Petition, the Master direct that any such Charge, Statement, or Proposal be made by any Party; and any Person interested in the Matter may apply to the Master for Leave to attend him on any Proceedings under the same, and the Master may give such Directions with respect thereto as he thinks fit, and the Master may, if he sees fit, dispense with any Summons in the course of the Proceedings, and also from Time to Time direct any Summons to be taken out by any Parties attending the Proceedings, and fix the Times at which any Summons shall be returnable before him, or at which any Proceedings necessary to be taken shall be taken, and may proceed *de die in diem*, or may adjourn the Proceedings from Time to Time, as he sees fit, and generally may, without Reference to any Rule or Course of Practice of the Court, save as herein provided, regulate the Course of such Proceedings in such Manner as appears to him expedient for rendering the same inexpensive and speedy, so far as Justice will admit.

State of Facts may be dispensed with, and Master to regulate Proceedings.

XVII. And be it enacted, That no Order of the Master under this Act shall require Confirmation by the Court, except where an Order, subject to the Opinion of the Court, or a special Report, is made by him, as herein provided, except where the Court has in the Order referring the Petition to the Master given any special Directions in that Behalf, but every such Order shall have the same Authority and Effect, and may be enrolled in the same Manner, and shall be binding upon the same Persons, and may be enforced by the same or any such Process, and shall be subject to Rehearing and Appeal, in the same Manner in all respects, except as herein provided, as if the same had been made by the Court in a Suit duly instituted, or otherwise as may be directed by any General Order to be made in that Behalf, as herein-after mentioned.

Master's Orders to take effect as Orders of Court.

XVIII. And be it enacted, That the Master shall have Power, if he think fit, to make a special Report concerning the Matter of any Petition referred to him as aforesaid, or upon any Question or Matter arising in the Proceedings thereupon, or to make any Order, subject to the Opinion of the Court, to the Intent that the Opinion of the Court may be taken on the Matter of such Petition, or on such Question, Matter, or Order, as the Case may be; and such special Report or Order shall be brought before the Court by such Parties as the Master directs, by Motion praying that such special Report or Order may be confirmed, discharged, or varied by Order of

Master may make special Reports or Orders, subject to Confirmation.

the Court, or that any Directions may be given thereupon; and on the Hearing of such Motion such Report or Order respectively of the Master shall be confirmed, discharged, or varied, or such Directions shall be given, as to the Court seems just.

Service to be made as the Court or Master shall direct.

XIX. And be it enacted, That Service of Notice of any Petition 5 under this Act, whether before the Court or the Master, shall, until and except so far as it shall be otherwise provided by any General Order to be made as herein-after provided, be subject to the same Regulations as apply to the Service of a Subpoena in any Suit, and the Court shall have all the same Powers with respect to ordering 10 the Service of any such Petition out of the Jurisdiction of the Court, or otherwise, as under any Act of Parliament or by the Constitution of the Court it has or may lawfully exercise with respect to the Service of any Subpoena in a Suit instituted by way of Bill or Information, but after such Service shall have been made all other 15 Services with respect to any Matter for the Time being pending before the Court or Master under such Petition, or consequent thereon, shall be made upon such Persons and in such Manner, whether by Post or otherwise, as the Court or Master respectively shall direct, and with respect to Persons out of the Jurisdiction of the 20 Court, or who has absconded or cannot be found, and in such other Cases as the Court or Master thinks fit, shall be sufficiently made by such Advertisements or Publications as the Court or Master shall direct; and every such Service, Advertisement, or Publication so directed by the Master shall be valid and conclusive, to the same 25 Extent and in the same Manner, and upon and against the same Parties or Persons, as the Service according to the Practice of the Court of any Subpoena or Petition in Equity would have been: Provided always, that the Affidavit of Service of the Notice of any such Petition as aforesaid shall state whether or not the Party served 30 was a Person under Disability, and in case of the Party being under Disability the Court or Master shall, if they see fit, require the Appearance of Counsel for such Party, or shall make such other Order in that Behalf as shall be just.

Power to Master to appoint Guardians to Infants for the Purpose of Proceedings under the Act.

XX. And be it enacted; That when any Person interested in 35 any Matter for the Time being pending under this Act is an Infant, it shall be lawful for the Master, by any Order under his Hand, to appoint such Person as he thinks proper to be the Guardian of such Infant for the Purposes of all or any Proceedings under this Act; and every Guardian so to be appointed shall have Power 40 to institute, prosecute, defend, or consent to any Proceeding under this Act on behalf of his Ward, and shall represent his Ward in or about every such Proceeding, in the same Manner and with the same

same Effect, to all Intents and Purposes, as any Guardian appointed by the Court might have done with respect to any Suit or other Proceeding on behalf of his Ward, instituted according to the Practice of the Court.

- 5 XXI. And be it enacted, That after the Court has made any Order under this Act referring to the Master any Petition with respect to the Administration of the Real and Personal Estate or of the Personal Estate of any deceased Person, or after a Decree or Order has been made by the Court in any Suit referring to the Master the Matter
 10 of any such Administration, it shall not be lawful for any Creditor or other Person, so long as any such Order as aforesaid remains in force, to commence or proceed with any Action against the Executor or Administrator of such deceased Person, or against his Heir or Devisee in the Case of Real Estate so to be administered, for
 15 any Debt or Demand claimed against the Estate of such deceased Person, without the Leave of the Master in Writing first obtained in that Behalf; and it shall be lawful for any Judge of the Court in which any such Action is pending to order that all further Proceedings in such Action be stayed until after such Leave as aforesaid of
 20 the Master has been obtained, and to make such Order as to the Costs of any such Action as to such Judge appears just.

After Reference to Master of Petition with respect to Administration, or after Decree, no Creditor to sue without Master's Leave.

- XXII. And be it enacted, That when any Proceedings upon Petition under this Act shall be stayed, and a Suit ordered to be instituted in lieu thereof, under the Provisions herein-before contained for that
 25 Purpose, all Proceedings, Accounts, and other Things taken and done in the Prosecution of the Matter of such Petition before the Master, prior to the Order of the Court for the Institution of a Suit or other Proceedings before the Court as aforesaid, shall (except so far as the Court otherwise directs in any Case) be as valid and conclusive, for
 30 the Purposes of any such Suit or other Proceedings, as if the same had been taken or done in such Suit or other Proceedings before the Court.

Where Suit instituted, previous Proceedings before Master to be valid.

- XXIII. And be it enacted, That in case of the Illness or Absence of the Master before whom any Matter is pending under this Act, it
 35 shall be lawful for any other Master, without any special Direction or Appointment of the Court, to act for the Time being in such Matter in the Place of the Master so being ill or absent, and to exercise all the Powers and Authorities which such last-mentioned Master might have exercised in the Matter.

In case of Illness of a Master another Master may act.

- 40 XXIV. And be it enacted, That, subject to the Right of Appeal herein-after provided, the Costs of all Proceedings under this Act
 101. C which Payment, Taxation, and Recovery of Costs

in Proceedings before the Master.

which take place before the Master shall be in the Discretion of the Master, and the Costs of all Proceedings before the Court shall be in the Discretion of the Court; and all Costs ordered by the Master shall be ascertained by the Master, or shall be taxed by One of the Taxing Masters of the Court, and shall be recovered 5 in the same Manner, and by the same or any such Process, as Costs ordered to be paid by any Party under any Order or Decree made in a Suit.

Masters within Six Months to make Rules for Proceedings under the Act.

XXV. And be it enacted, That the Masters shall as nearly as possible observe a uniform Course of Practice in their respective 10 Offices in all Proceedings under this Act; and the said Masters shall, within Six Months from the passing of this Act, make such Rules under their Hands as seem to them necessary and expedient concerning the Form and Mode of Proceeding to be had before the Masters under this Act, and for providing that a proper Record be kept of the 15 Proceedings of the Masters, and the Orders made by them with respect to Petitions referred to them under this Act, and concerning the collecting of the Debts due to and the realising of all or any Part of any Estate for the Time being in course of Administration before the Master, and concerning the Costs and Fees or other Compensations 20 to be paid in respect of any Proceedings before the Master, and the Service of any such Proceedings by Post, Advertisement, or otherwise; and the said Masters shall have Power from Time to Time to vary or amend such Rules, and to make others in lieu thereof or in addition thereto; and all such Rules shall be entered in a Book to 25 be kept for that Purpose by the Senior Master for the Time being, and shall be transmitted to the Lord Chancellor, for his Inspection, within One Week from the making thereof, and, unless disallowed by the Lord Chancellor within One Month from the Time of the same having been so laid before him, shall be of the same Effect and 30 Validity as any General Rules or Orders of the Court.

Petition may be presented to the Court for partial Relief, &c.

XXVI. And be it enacted, That where any Person who would have been entitled to present any Petition under this Act is desirous of obtaining a partial Administration of any Estate or Trust (whether by way of Inquiries for Creditors or next of Kin, or Persons 35 beneficially interested in or under the same, or otherwise howsoever), or is desirous of obtaining any Portion of the Relief usually granted or which might be afforded, or the Exercise of any One or more of the Powers or of any Part of the Jurisdiction usually exercised by the Court in a Suit, or which might be exercised by the Master under 40 this Act, it shall be lawful for such Person to present a Petition to the Court for such partial Administration or partial Relief, or partial Exercise of the Powers and Jurisdiction of the Court or Master, accordingly;

accordingly; and all the Provisions herein contained with respect to any Petition presented under this Act, and to the Proceedings under the same or consequent thereon, and to the Powers and Jurisdiction of the Court and of the Master in or about the same, and to the making of Rules and Orders concerning the same, shall apply in all respects to any such Petition as last aforesaid, and to the Proceedings under the same or consequent thereon, and to the Powers and Jurisdiction of the Court or of the Master in or about the same, and to the making of Rules and Orders concerning the same.

- 10 XXVII. And be it enacted, That it shall be lawful for the Court to direct the Consolidation or to make any other Order for the carrying on together of any Two or more Proceedings relating to or connected with the same Trust or Estate, whenever such Order appears expedient.

Two or more Proceedings may be consolidated.

- 15 XXVIII. And be it enacted, That if any Transmission take place, by Death, Marriage, or otherwise, of the Interest of any Party to any Proceeding, whether by Bill or Information in the ordinary Course or under this Act, it shall be lawful for any Party interested to bring before the Court the Person to whom such Interest has been so transmitted, either by a supplemental Bill, Information, or Petition, or by a Suggestion at the Foot of the original Bill, Information, or Petition, and Notice to such Person; and Service of such Notice being made, the Person so served shall, from the Time of such Service, become a Party to such Proceeding, and be bound in all respects in the same 25 Manner as if an Order for Revivor or a supplemental Decree had been made, as the Case may require, without the Necessity for any Order of Revivor or supplemental Decree being made by the Court: Provided always, that if the Person served be under Disability the Matter shall be specially brought before the Court by Affidavit, and 30 the Court shall thereupon make such Order as may be just.

Mode of continuing Proceedings on Transmission of Interest of Parties.

- XXIX. And be it enacted, That an Appeal shall lie to the Court upon Motion, from or against all Orders, Directions, and other Proceedings of or before the Master under this Act; and any Order to be made by the Master of the Rolls under this Act may be reheard on Motion before the Lord Chancellor, and 35 any Order which, according to the Practice of the Court, might be reheard upon Petition by the Judge who made such Order, may be so reheard upon Motion; and an Appeal shall also lie to the House of Lords from all Orders to be made by the Court under this Act, yet 40 so that no such Appeal shall be brought or Rehearing moved unless with the special Leave of the Court (which Leave the Court shall only grant upon being satisfied that substantial Grounds probably exist

Appeal from the Master's Orders and Orders on Petition to be upon Motion; Rehearings and Appeals to the House of Lords, to be within a limited Time.

exist for such Appeal or Rehearing, and for the Delay in bringing or moving the same), after the Expiration of the following Periods from the Time when the Order, Direction, or other Proceeding complained of was made or took place, or from the Service of Notice of the same, if the Party complaining was not present; that is to say, for an Appeal from the Orders or Directions of the Master or Proceedings before him, not being such Reports as hereafter provided for, the Period of Fourteen Days, or such further Time as the Master shall by Order made in the Matter allow; for a Rehearing before the Lord Chancellor or Master of the Rolls, the Period of One Month (both such Periods to be exclusive of any Vacations of the Court); and for an Appeal to the House of Lords, the Period of One Year: Provided always, that this Enactment shall not be taken to extend the Time within which Reports of the Masters of the Court are by any General Order of the Court directed to stand confirmed.

Lord Chancellor to make Orders for carrying the Act into effect, and extending its Scope.

XXX. And be it enacted, That the Lord Chancellor, with the Assistance of the Master of the Rolls, in Ireland, may from Time to Time make such General Orders as shall seem necessary or expedient for carrying the Purposes of this Act into effect, and for regulating the Practice under the same, and for extending the same to other Matters than those to which it is herein made specially applicable, and for determining, if need be, the Matters to which the Provisions of this Act shall not apply, and may alter or annul such Orders from Time to Time, and make others in lieu thereof.

The Master of the Rolls empowered to appoint a Secretary with a Salary.

XXXI. And be it enacted, That it shall be lawful for the Master of the Rolls in Ireland from Time to Time to appoint a fit Person to act as Secretary to the Master of the Rolls in Ireland; and the Person so appointed shall hold his Office during the Pleasure of the said Master of the Rolls, and shall be entitled to receive by way of Salary the clear annual Sum of 30 payable in manner herein-after mentioned.

The Lord Chancellor's Secretary and the Masters Clerks and Examiners to be paid by a Salary in lieu of Fees.

XXXII. And whereas it is expedient that the Secretary of the Lord Chancellor, and the Person filling the Office of the Clerk and Examiner of each of the Masters of the said Court, should be remunerated by an annual Salary instead of by Fees, and that the Fees payable to such Secretary and to each of such Clerks and Examiners should be accounted for and applied in manner herein-after mentioned: Be it therefore enacted, That from and after the passing of this Act the Secretary of the Lord Chancellor shall be entitled to receive by way of Salary the clear annual Sum of 40 payable in manner hereafter mentioned, in lieu of the

the Fees heretofore received and enjoyed by him; and there shall also be allowed and paid for the Expenses of the Office of the said Secretary such Sum as the Lord Chancellor may allow for a Clerk, and for other incidental and necessary Expenses of his Office (to be defined in the Order making such Allowance), not exceeding in the whole for any One Year, including the Allowance for such Clerk, the Sum of

XXXIII. And be it enacted, That from and after the passing of this Act the Person filling the Office of Clerk and Examiner of each of the Masters of the said Court, and the Assistant Clerk of such Clerk and Examiner, shall hold their Offices respectively during good Behaviour, and shall not be removed except by the Order of the Lord Chancellor, and every such Clerk and Examiner shall be entitled to receive by way of Salary the clear annual Sum of , payable in manner herein-after mentioned, in lieu of the Fees heretofore received and enjoyed by him; and there shall also be allowed and paid for the Expenses of the Office of such Clerk and Examiner such Sum as the Lord Chancellor shall allow for that Purpose (the Particulars of such Expenses being defined in the Order making such Allowance), not exceeding in the whole for any One Year the Sum of ; and every such Assistant Clerk shall be entitled to receive by way of Salary the clear annual Sum of , payable in manner herein-after mentioned, and such Salary shall be in lieu of the Salary or Allowance of Seventy Pounds, late Irish Currency, payable to such Assistant Clerk under an Act passed in the Sixth Year of the Reign of His Majesty King George the Fourth, intituled "An Act to amend an Act of the Fourth Year of His present Majesty's Reign, for the better Administration of Justice in the Court of Chancery in Ireland," and all other Fees or Emoluments heretofore received or enjoyed by him in his Office, and such last-mentioned Salary or Allowance shall cease to be payable.

XXXIV. And be it enacted, That the said Salaries and Allowances shall be payable in quarterly Payments on the First Day of January, the First Day of April, the First Day of July, and the First Day of October, and shall be charged upon and payable out of the Fund standing to the Account of the Accountant General of the Court of Chancery, called "The Suits Fee Fund Account," but subject and without Prejudice to the Payment of all Salaries and all Sums of Money by any Act now in force directed or authorized to be paid thereout, and all proper Orders shall be made for that Purpose; and the first Payment shall be made on the first of the said quarterly Days happening after the passing of this Act, and the

CLAUDE C.
The Clerk
and Examiner
of Masters
and Assistant
Clerks to
hold Office
during good
Behaviour,
and to be
paid by
Salary in lieu
of Fees.

Salary of Assistant Clerk
to be in lieu
of Salary
payable under 5 G. 4.
c. 50.

The Salaries
to be paid
quarterly.

101.

D

Amount

Amount thereof shall be such a proportionate Part of the said Salaries and Allowances respectively as shall have accrued from the Day of the passing of this Act to such quarterly Day; and in the event of the Death, Resignation, or Removal from Office of either of such Secretaries, or any of such Clerks and Examiners or Assistant Clerks, in the Interval between any of the said quarterly Days of Payment, the Secretary or Clerk and Examiner or Assistant Clerk so resigning or being removed, or the Executors or Administrators of the Secretary or Clerk and Examiner or Assistant Clerk so dying, shall be entitled to receive and shall be paid such proportional Part of his said Salary as shall have accrued from the next preceding quarterly Day of Payment to the Day of such Death, Resignation, or Removal, and his Successor shall be entitled to such proportional Part of the said Salary as shall have accrued from the Day of such Death, Resignation, or Removal to the then next quarterly Day of Payment.

CLAUDE D.
The Lord
Chancellor's
Secretary
and the
Clerks and
Examiners
to pay over
to the Suits
Fee Fund,
monthly, all
Fees received
by them.

XXXV. And he it enacted, That the Secretary of the Lord Chancellor and the said Clerks and Examiners and Assistant Clerks shall continue to discharge the Duties belonging to their several Offices; and the said Secretary of the Lord Chancellor, and the Clerks and Examiners, shall receive the Fees and Sums of Money for the Time being lawfully payable to them or in their Offices respectively, and shall keep true and accurate Accounts thereof, and shall pay into the Bank of Ireland to the Credit of the said Accountant General, once in every Month, all Fees or Sums of Money so to be received by them respectively, the Amount so received and paid by them to be verified by Affidavit, to be sworn before One of the Masters of the Court; and the several Sums thus so paid in shall be from Time to Time paid to the said Account called "The Suits Fee Fund Account."

CLAUDE E.
Compensation
for Diminution
of Emoluments
to be made
to Officers
out of the
Suits Fund.

XXXVI. And whereas the Emoluments of some of the Officers of the Court may be diminished by the Operation of this Act, or by the Rules and Orders to be made thereunder, for which they may claim to have Compensation made: Be it therefore enacted, That it shall be lawful for the Commissioners of Her Majesty's Treasury for the Time being, or any Three or more of them, and they are hereby required, within the Space of Six Calendar Months after any such Claim shall arise and be made, by Examination on Oath or otherwise (which Oath they and each of them are and is hereby authorized to administer), to inquire whether any, and if any what, Compensation ought to be made to any Officer or Person claiming such Compensation, the said Commissioners having regard to the Conditions on which the Appointment of any such Officer was made, or to any Notice which at the Time of such Appointment may have been given to

to such Officer that such Office was to be holden subject to any Provision by Parliament for the Abolition or Regulation thereof, but with full Power for the said Commissioners to investigate and determine whether, from the Nature of the said Offices or the Mode of
 5 Accession thereto, any such Conditions or Notice could have been properly made or given, and also having regard to the holding of any Office, Place, or Situation by such Officer under this Act; and that in all Cases in which it shall appear to the said Commissioners that Compensation ought to be granted, it shall be lawful for the Com-
 10 missioners, or any Three or more of them, by Warrant under their Hands, to order and direct that such annual or other Compensation shall be made to the Persons so claiming such Compensation as aforesaid, or any of them, as to the said Commissioners in their Discretion shall seem just and reasonable; and all such Compensation,
 15 whether annual or in gross, shall be charged upon and payable out of the said Fund standing to the Account called "The Suitors Fee Fund Account," but subject and without Prejudice to the Payment of all Salaries and all Sums of Money by any Act or Acts now in force directed or authorized to be paid thereout, and all
 20 proper Orders shall be made for that Purpose: Provided always, that an Account of all such Compensations shall, within Fourteen Days next after the same shall be so granted, be laid upon the Table of the House of Commons if Parliament be then assembled, or if Parliament be not then assembled, then within Fourteen
 25 Days after the Meeting of the Parliament then next assembled.

XXXVII. And be it enacted, That any Petition to the Court under this Act shall constitute a *Lis pendens* within the Meaning of an Act passed in the Eighth Year of Her Majesty, intituled "An Act for the
 30 "Protection of Purchasers against Judgments, Crown Debts, *Lis pendens*, and Commissions of Bankruptcy, and for providing One "Office for the registering of all Judgments in Ireland, and for
 "amending the Laws in Ireland respecting Bankrupts and the Limitation of Actions;" and it shall be a sufficient Compliance with so much of the same Act as requires the Title of the Cause or Information
 35 and the Day when the Bill or Information was filed to be left with such registering Officer as therein mentioned if the Names of the Petitioners, or some one or more of them, and of the Respondents, or some one or more of them, and the Day when the Petition was presented, be left with such Officer as aforesaid.

Petition to be
Lis pendens
 within the
 Meaning of
 7 & 8 Vict.
 c. 90, s. 10.

40 XXXVIII. And be it enacted, That in citing this Act in other Acts of Parliament, and in legal or other Instruments and Proceedings, it shall be sufficient to use the Expression "The Court of Chancery (Ireland) Improvement Act, 1850."

CLAUDE F.
 Short Title
 of Act.

101.

E

XXXIX. And

Interpreta-
tion of Act.

XXXIX. And be it enacted, That in the Construction of this Act the Expression "the Lord Chancellor" shall mean the Lord Chancellor of Ireland, and shall include the Lord Keeper and Lords Commissioners for the Custody of the Great Seal in Ireland; and the Expression "the Court" shall mean the High Court of Chancery 5 in Ireland; and the Expression "the Master" shall mean the Master in Ordinary of the High Court of Chancery in Ireland to whom any Petition is referred, or before whom any Matter is pending under this Act for the Time being respectively; and the Word "Person" shall include "Corporation," and shall include 10 Her Majesty's Attorney or Solicitor General in Cases of Charities or of Informations at the Suit of Her Majesty; and Words importing the Singular Number shall include the Plural Number, and Words importing the Plural Number shall include the Singular Number, and Words importing Males shall include Females; unless there be some- 15 thing in the Subject or Context repugnant to such Construction.

Act may be
amended, &c.

XL. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.

SCHEDULE to which the foregoing Act refers (Sect. 5.)

In the Matter of the Petition of

I *A.B.*, the Petitioner in the above written or annexed, (*as the Case may be*) Petition, make Oath and say, That so much of the above written (*or annexed, as the Case may be*) Petition as relates to my own Acts and Deeds is true, and so much thereof as relates to the Acts and Deeds of any other Person I believe to be true.

Sworn, &c.